

ANDRE LAVALLEE
7/19/2001

1

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

NORKOL/FIBERCORE, INC., *

Plaintiff * Case No. 01-14019-CIV

vs. * -MIDDLEBROOKS

L&P CONVERTERS CORP., *

STERLING TECHNOLOGY, INC. * Magistrate Judge

and MARTIN R. GUBB, * Lynch

Defendants *

DEPOSITION OF ANDRE LAVALLEE

At the Law Offices of

CATUOGNO COURT REPORTING SERVICES

1414 Main Street, Monarch Place

Springfield, Massachusetts 0114

July 19, 2001 2:03 p.m.

Deborah R. Leonard

Registered Professional Reporter

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<p style="text-align: right;">2</p> <p>1 APPEARANCES:</p> <p>2</p> <p>3 Representing the Plaintiffs:</p> <p>4 ROBERT J. GORMAN, P.A.</p> <p>5 1209 Delaware Avenue</p> <p>6 Fort Pierce, Florida 34950</p> <p>7 BY: ROBERT J. GORMAN, ESQ.</p> <p>8 (561) 465-5311 FAX (561) 465-5722</p> <p>9</p> <p>10</p> <p>11 Representing the Defendants:</p> <p>12 HOLLAND & BONZAGNI, P.C.</p> <p>13 Longmeadow Professional Park</p> <p>14 171 Dwight Road</p> <p>15 Longmeadow, Massachusetts 01106</p> <p>16 BY: DONALD S. HOLLAND, ESQ.</p> <p>17 (413) 567-2076 FAX (413) 567-2079</p> <p>18</p> <p>19</p> <p>20 In attendance:</p> <p>21 Karl Thomas</p> <p>22 Kristen Edwards,</p> <p>23 Interning Stenographer</p> <p>24</p>	<p style="text-align: right;">4</p> <p>1 PAGE PAGE</p> <p>2 Composite Exhibit G, videotape..... 30</p> <p>3 Composite Exhibit H, purchase orders, under</p> <p>4 cover sheet "4 Chain Saws"</p> <p>5 (designated Confidential, Counsel and</p> <p>6 Experts Only)..... 30</p> <p>7 Composite Exhibit I, purchase orders</p> <p>8 (designated Confidential, Counsel and</p> <p>9 Experts Only)..... 30</p> <p>10 Exhibit 16, production request..... 119</p> <p>11 Exhibit 17, color laser print of three</p> <p>12 photographs..... 121</p> <p>13 Exhibit 18, 8/25/00 letter, Clemmons to</p> <p>14 [redacted]..... 158</p> <p>15 Exhibit 19, 10/27/00 letter, Clemmons to</p> <p>16 [redacted], with attached quote..... 158</p> <p>17</p> <p>18 (Exhibits retained by Attorney Gorman)</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>
<p style="text-align: right;">3</p> <p>1 INDEX</p> <p>2</p> <p>3 DEPONENT: ANDRE LAVALLEE</p> <p>4</p> <p>5 CONFIDENTIAL, FOR COUNSEL AND EXPERTS ONLY</p> <p>6 Pages 16 to 19</p> <p>7 Pages 89 to 99</p> <p>8</p> <p>9 EXAMINATION BY PAGE</p> <p>10 Mr. Gorman 5</p> <p>11 Mr. Holland 175</p> <p>12</p> <p>13 FURTHER EXAMINATION BY PAGE</p> <p>14 Mr. Gorman 180</p> <p>15</p> <p>16 EXHIBIT PAGE</p> <p>17 Composite Exhibits C1 through C4, color</p> <p>18 photographs..... 29</p> <p>19 Composite Exhibit D, Precision paper saw</p> <p>20 brochure..... 29</p> <p>21 Composite Exhibit E, drawings (designated</p> <p>22 Confidential)..... 29</p> <p>23 Composite Exhibit F, blueprints (designated</p> <p>24 Confidential)..... 30</p>	<p style="text-align: right;">5</p> <p>1 ANDRE LAVALLEE, Deponent, having first been</p> <p>2 duly sworn, deposes and states as follows:</p> <p>3</p> <p>4</p> <p>5 EXAMINATION BY MR. GORMAN:</p> <p>6</p> <p>7 Q. Mr. Lavallee, I'm Bob Gorman. I</p> <p>8 represent the plaintiff in this action,</p> <p>9 Norkol/Fibercore Inc. And this is an opportunity</p> <p>10 for us to get some information that you might</p> <p>11 personally know or have any information about any</p> <p>12 of the matters in the case.</p> <p>13 If, for any reason, you don't</p> <p>14 understand any of my questions, whether I've</p> <p>15 mumbled, I've asked an incoherent question, it</p> <p>16 just doesn't make sense, my accent, my mixed</p> <p>17 accent, any of that, let me know, okay?</p> <p>18 A. All right.</p> <p>19 Q. And if you don't indicate you don't</p> <p>20 understand the question, I'm going to make the</p> <p>21 assumption that you do understand it. Fair</p> <p>22 enough?</p> <p>23 A. Fine.</p> <p>24 Q. For the record, would you tell us</p>

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<p style="text-align: right;">6</p> <p>1 your full name and your residence address.</p> <p>2 A. Andre Lavallee, 38 Harrington Road,</p> <p>3 Charlton, Massachusetts.</p> <p>4 MR. HOLLAND: And, for the record,</p> <p>5 we're going to continue with the same</p> <p>6 stipulations that we did in the earlier</p> <p>7 deposition?</p> <p>8 MR. GORMAN: Sure.</p> <p>9 MR. HOLLAND: Including about the</p> <p>10 confidentiality. And in this particular</p> <p>11 instance, there are going to be some</p> <p>12 instances that are going to be sensitive</p> <p>13 that I'm not going to know when they --</p> <p>14 until they occur. And I hate to have</p> <p>15 Mr. Thomas jumping up and down. I don't</p> <p>16 think there are going to be that many, but</p> <p>17 there are some that are going to -- that</p> <p>18 will undoubtedly occur.</p> <p>19 MR. GORMAN: We'll address them. I</p> <p>20 don't think you and I will have any</p> <p>21 difficulty, Don, in addressing those.</p> <p>22 MR. HOLLAND: Okay.</p> <p>23 MR. GORMAN: And I have a pretty</p> <p>24 good sense of where they might come up.</p>	<p style="text-align: right;">8</p> <p>1 Road, Charlton, Mass.?</p> <p>2 A. Yes.</p> <p>3 Q. How long have you resided there?</p> <p>4 A. Two years.</p> <p>5 Q. Prior to that, where did you live?</p> <p>6 A. Thompson, Connecticut.</p> <p>7 Q. Okay, where in Thompson? Is that</p> <p>8 Thompson or Thompsonville?</p> <p>9 A. Thompson.</p> <p>10 Q. Thompson, okay.</p> <p>11 A. On Route 198, I believe it was, in</p> <p>12 Thompson. I had a house there.</p> <p>13 Q. How long did you reside there?</p> <p>14 A. Thirteen years.</p> <p>15 Q. Now, what's your date of birth?</p> <p>16 A. February 14th, '38.</p> <p>17 Q. And your social security number?</p> <p>18 A. 010-30-7409.</p> <p>19 Q. And, currently, you have a</p> <p>20 Connecticut or a Massachusetts driver's license?</p> <p>21 A. Mass.</p> <p>22 Q. Have you ever had a Connecticut</p> <p>23 driver's license?</p> <p>24 A. Yes.</p>
<p style="text-align: right;">7</p> <p>1 We'll try to do that. I've already</p> <p>2 discussed those aspects with my client's</p> <p>3 representative.</p> <p>4 Q. (By Mr. Gorman) Do you have a</p> <p>5 middle initial?</p> <p>6 A. A.</p> <p>7 Q. What do you usually go by?</p> <p>8 A. Usually, Andre Lavallee.</p> <p>9 Q. Andre, okay.</p> <p>10 A. Except in legal papers, I use my</p> <p>11 middle initial.</p> <p>12 Q. Are you more comfortable as Andre?</p> <p>13 A. Yes.</p> <p>14 Q. As Andy?</p> <p>15 A. Yes. Oh, Andy is fine.</p> <p>16 Q. Okay. Because, actually, up until</p> <p>17 today, all's I've ever heard your name referred</p> <p>18 to was as Andy.</p> <p>19 A. Yes.</p> <p>20 Q. Is that what people normally call</p> <p>21 you?</p> <p>22 A. Yes.</p> <p>23 Q. And I think, just to clarify, I</p> <p>24 think I caught your address as 38 Harrington</p>	<p style="text-align: right;">9</p> <p>1 Q. And place of birth?</p> <p>2 A. Southbridge, Massachusetts.</p> <p>3 Q. Give me -- well, let me start it</p> <p>4 this way. Your employer is, currently, L&P</p> <p>5 Converters Inc.?</p> <p>6 A. Yes.</p> <p>7 Q. How long have you been employed by</p> <p>8 L&P Converters?</p> <p>9 A. Fifteen years.</p> <p>10 Q. Have you ever been employed by</p> <p>11 Sterling Technologies or Sterling Envelope?</p> <p>12 A. No.</p> <p>13 Q. What is your current position with</p> <p>14 Sterling -- or, excuse me, with L&P?</p> <p>15 A. Maintenance supervisor.</p> <p>16 Q. And what are your duties as</p> <p>17 maintenance supervisor?</p> <p>18 A. To oversee the maintenance of all</p> <p>19 the machinery, industrial trucks, buildings,</p> <p>20 tractor trailers.</p> <p>21 Q. Okay.</p> <p>22 A. That's it.</p> <p>23 Q. Who is your immediate supervisor?</p> <p>24 A. Martin Gubb.</p>

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1 Q. And do you have any employees who
2 you supervise?
3 A. Three.
4 Q. And what types of duties do those
5 three employees have?
6 A. Everything I just mentioned.
7 Q. Now, when you say maintenance of --
8 I think you said equipment?
9 A. Machinery.
10 Q. Machinery?
11 A. Mm-hmm.
12 Q. Is that machinery that is utilized
13 by the company in its business?
14 A. Yes.
15 Q. Does it include equipment that might
16 be held in inventory for sale?
17 A. Yes.
18 Q. And how long have you held the
19 position of maintenance supervisor?
20 A. Thirteen years.
21 Q. And prior to that, what was your
22 position?
23 A. I had my own business.
24 Q. Okay. Well, I think you've been

12

1 Q. And how long did you work in the
2 machine shop with the auto parts company?
3 A. All told, about thirty-five years.
4 Q. Until when?
5 A. Until I went to work for L&P.
6 Q. Okay. Were you with the same
7 company during that entire thirty-five years?
8 A. I was, but I purchased the machine
9 shop. I had that for five years.
10 Q. Okay.
11 A. But the same company.
12 Q. Well, what was the auto parts
13 company?
14 A. At that time it was called Bousquet.
15 B-O-U-S-Q-U-E-T.
16 Q. Run that by me again? I'm sorry.
17 A. B-O-U-S.
18 Q. Okay.
19 A. Q-U-E-T.
20 Q. Okay. Bousquet. And that was an
21 auto parts supplier?
22 A. Yes.
23 Q. Or manufacturer?
24 A. Supplier.

11

1 fifteen years with L&P?
2 A. Mm-hmm.
3 Q. Thirteen years in this position. So
4 for the first two years, what was your position?
5 A. Oh, I'm sorry. Just the maintenance
6 mechanic.
7 Q. Just maintenance mechanic? Do you
8 have any professional licensure or certification,
9 issued by any state?
10 A. No.
11 Q. Are you certified by any
12 organizations or associations, professional or
13 otherwise?
14 A. No.
15 Q. I'd like to take you back a bit.
16 When did you graduate from high school?
17 A. '56.
18 Q. Here in Massachusetts?
19 A. Yes.
20 Q. After graduation, what did you do?
21 A. I went to work for an auto parts
22 company.
23 Q. Okay. Doing what?
24 A. Machine shop work.

13

1 Q. Happened to have a machine shop, as
2 an adjunct?
3 A. Yes. Mm-hmm.
4 Q. And you worked as a machinist?
5 A. Yes.
6 Q. And at what point -- is that the
7 machine shop you purchased?
8 A. Yes.
9 Q. When did you purchase the machine
10 shop?
11 A. Well, just about five years before I
12 started working for L&P.
13 Q. Okay. So sometime early eighties?
14 A. Somewheres, yes.
15 Q. '82 range, something like that?
16 A. Mm-hmm.
17 Q. Okay. What happened to the machine
18 shop?
19 A. I just didn't want part of it
20 anymore.
21 Q. Did you close it down? Did you sell
22 it?
23 A. I sold it.
24 Q. You sold it?

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- 1 A. Mm-hmm.
2 Q. Prior to selling it, had you met
3 Martin Gubb?
4 A. No.
5 Q. Have you at any time attended any
6 type of courses or training sessions for any type
7 of advanced education, learning, vocation,
8 certificate?
9 A. I went to a trade school.
10 Q. Okay. When, and which one?
11 A. That's where I graduated in '56.
12 Q. Oh, in '56, okay. Which trade
13 school?
14 A. It was Kole Trade High. K-O-L-E.
15 Q. Where is that located?
16 A. That was in Southbridge.
17 Q. Are they still there?
18 A. No.
19 Q. Okay. And that was for machine
20 operate -- machinists?
21 A. No.
22 Q. No?
23 A. It was for electrical.
24 Q. Electrical. Okay. And what made

15

- 1 you decide to make the switch to machinist from
2 electrical?
3 A. I was always interested in
4 machinery.
5 Q. And someone had convinced you were
6 supposed to be in electricity, and you finally
7 got to go into what you wanted to?
8 A. Yeah. Well, when I got out of
9 school, I couldn't find a job.
10 Q. Okay. Have you, at any time since,
11 engaged in electrical work?
12 A. Yes, off and on.
13 Q. Off and on? What type?
14 A. Houses, mostly.
15 Q. Okay.
16 A. And some wiring in the plant.
17 Q. Okay. What wiring in the plant have
18 you done?
19 A. Minor. Just lighting, mostly.
20 Q. Okay. Have you at any time
21 conceived of any new concepts or methods or
22 devices that would be patentable?
23 MR. HOLLAND: Objection, to the
24 extent it calls for a legal conclusion.

20

- 1 Q. Where else have you seen it?
2 A. **We have another one in the shop.**
3 Q. Okay. I thought this one was
4 developed, or conceived, and fabricated at L&P?
5 A. **We did make this one.**
6 Q. Okay. Where else have you seen one?
7 A. **I can't say that I've seen one**
8 **anywhere else.**
9 Q. Have you heard of any others like
10 it?
11 A. **In magazines.**
12 Q. What magazines?
13 A. **I'd have to say the converter**
14 **magazine, Paper, Film, and Foil Converter.**
15 Q. Now, the ones that you've seen
16 advertised in the converter magazines, are those
17 advertised for sale?
18 A. **I would guess.**
19 Q. When did you first see one in these
20 magazines advertised for sale?
21 A. **When I started working for the**
22 **company.**
23 Q. When you say the company, you're
24 talking about L&P.

21

- 1 A. **Yes.**
2 Q. And that would have been
3 approximately 1985, 1986?
4 A. **Early eighties, yes.**
5 Q. Okay. So you had seen these similar
6 machines in the magazines years before you had
7 conceived of it.
8 A. **Yes.**
9 Q. Okay. Now, have you attended any
10 courses in engineering?
11 A. **No.**
12 Q. Have you done any design of
13 electrical machinery, electrical systems?
14 A. **Consulted on them.**
15 Q. With whom have you consulted?
16 A. **Company electrician.**
17 Q. At L&P, as a part of your job.
18 A. **Yes.**
19 Q. Now, have you at any time designed
20 any electrical systems for machinery that would
21 be utilized in the company?
22 A. **No.**
23 Q. Have you at any time taken
24 photographs of equipment that is located at other

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<p style="text-align: right;">22</p> <p>1 locations that are involved in the paper 2 industry?</p> <p>3 A. Yes.</p> <p>4 Q. What photographs have you taken of 5 equipment at other locations?</p> <p>6 A. Well, about three-quarters of the 7 machinery that's in the plant now I purchased, 8 and I've taken pictures of every one of them.</p> <p>9 Q. Okay. Have you taken pictures of 10 equipment in other locations that has not been 11 purchased?</p> <p>12 A. At times.</p> <p>13 Q. Have you taken pictures of any 14 equipment that is mobile in nature?</p> <p>15 A. Yes.</p> <p>16 Q. What equipment have you taken 17 pictures of that is mobile in nature?</p> <p>18 A. A saw.</p> <p>19 Q. And when were those pictures taken?</p> <p>20 A. I believe it was April of '98.</p> <p>21 Q. And where were those photographs 22 taken?</p> <p>23 A. I don't recall the name of the 24 company.</p>	<p style="text-align: right;">24</p> <p>1 A. I don't know the man's name.</p> <p>2 Q. Was anyone with you?</p> <p>3 A. No.</p> <p>4 Q. Describe this operator.</p> <p>5 A. He's fairly tall. At least my 6 height, or maybe a little higher, a little 7 taller.</p> <p>8 Q. How tall are you?</p> <p>9 A. Six feet.</p> <p>10 MR. HOLLAND: By any chance, was he 11 wearing a gray cap with a visor and --</p> <p>12 MR. GORMAN: Objection, counsel.</p> <p>13 Well, why don't you give us the 14 photographs.</p> <p>15 MR. HOLLAND: That's exactly --</p> <p>16 MR. GORMAN: That's what was asked 17 for quite some time ago in discovery.</p> <p>18 MR. HOLLAND: Nobody -- it didn't 19 come up in today's deposition yet. I 20 figured --</p> <p>21 MR. GORMAN: Well, if you've got 22 them, why don't you give them to me, and we 23 can make it a whole lot easier.</p> <p>24 MR. HOLLAND: In addition to those</p>
<p style="text-align: right;">23</p> <p>1 Q. Describe the saw that you took 2 pictures of.</p> <p>3 A. They had a base, or a turntable. 4 Channel type frame. Upright posts. With an arm 5 coming out of it, with a saw blade on the end. 6 With a hydraulic system.</p> <p>7 Q. Anything else about this that you 8 recall?</p> <p>9 A. No.</p> <p>10 Q. And what was the purpose of taking 11 photographs?</p> <p>12 A. To compare it against something we 13 were working on.</p> <p>14 Q. "We" being whom?</p> <p>15 A. L&P.</p> <p>16 Q. And what was it that you were 17 working on?</p> <p>18 A. A device to cut paper rolls.</p> <p>19 Q. And did you obtain permission to 20 take photographs of that device?</p> <p>21 A. Yes, I did.</p> <p>22 Q. From whom?</p> <p>23 A. The operator of the machine.</p> <p>24 Q. And who was that?</p>	<p style="text-align: right;">25</p> <p>1 photographs, here's the brochure you were 2 talking about earlier.</p> <p>3 MR. GORMAN: Well, I've got those. 4 But, yeah, what else do you got there for 5 production?</p> <p>6 You know, these we had, and they 7 know we've had them because we've actually 8 attached them to stuff we've filed when 9 they say they don't have anything.</p> <p>10 MR. HOLLAND: I've got some sketches 11 I'd like marked "Confidential," similar to 12 the blueprints. The majority of these are 13 hand-drawn. There are some that are -- 14 don't look like they're pen and ink. There 15 are some that generated on computer, 16 perhaps?</p> <p>17 THE WITNESS: Yes.</p> <p>18 MR. HOLLAND: And -- that should 19 assist. (Handing)</p> <p>20 We also have the videotape that you 21 were looking for, that we were talking 22 about earlier in our deposition.</p> <p>23 MR. GORMAN: Add it to my 24 collection?</p>

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1 MR. HOLLAND: Okay. This is the one
2 that you can question him. I've got to
3 double-check, but this was the one that
4 was, apparently, taken by Mr. Lavallee.

5 THE WITNESS: Yes.

6 MR. HOLLAND: This one. And that's
7 it.

8 THE WITNESS: It's probably the same
9 tape you have, anyway.

10 MR. GORMAN: We'll get into that.

11 Anything else, counselor?

12 MR. HOLLAND: No, not at this time.

13 MR. GORMAN: For the record, let's
14 go ahead and mark as exhibits -- since
15 these are production. I'd like to go and
16 continue from the numbers we had
17 previously -- so using the letters for what
18 they've produced, the photographs --
19 there's four in number -- will be Composite
20 C. The brochure, Composite D. The
21 drawings, Composite E. The other
22 blueprints and drawings, Composite F. And
23 G for the video?

24 MR. HOLLAND: I also have two

28

1 issue. And this one, again, is similar to
2 the one that you have in your hand,
3 Mr. Gorman. It's a -- series of purchase
4 orders for particular parts, etc., and the
5 names of the vendors, which, again, the
6 compilation is something that's not known,
7 generally known, within the trade. And,
8 therefore, for this one, too, we ask that,
9 at least for now, that it be marked
10 Confidential, Counsel and Experts Only.

11 I recognize that this is a matter to
12 be determined later, as to whether or not
13 it should fall into that category. And I
14 leave that up to the counsel for the
15 parties to deal with, either by and amongst
16 themselves or with the court. But here's
17 the second packet.

18 MR. GORMAN: The first packet, with
19 a cover sheet that says "4 Chain Saws," I
20 guess --

21 THE WITNESS: Mm-hmm.

22 MR. GORMAN: -- will be -- I guess
23 that's H.

24 And the next, which I believe will

27

1 additional items that I'd like to mark
2 under the second tier, Confidential,
3 Counsel and Experts Only.

4 One is for a device that predates
5 the device at issue, that is sort of a
6 precursor, one made with chain saws. And
7 that's this particular packet that I have.
8 I'd like that marked Confidential, Counsel
9 and Experts Only because it contains not
10 only piece-by-piece of the particular items
11 involved, but where to get them and who the
12 particular vendors are. And I think this
13 information is, clearly, not generally
14 known within the trade, as to the
15 compilation that's involved. So that's
16 one.

17 MR. GORMAN: Well, then you're not
18 claiming it as prior art?

19 MR. HOLLAND: I didn't say that. I
20 leave that up to counsel. For now let's
21 just mark it Confidential, Counsel and
22 Experts Only.

23 Then I have a second packet. This
24 packet deals more with the machine at

29

1 be I, is the latest one that is identified,
2 and that's a composite.

3 MR. HOLLAND: And, for the record,
4 there were no other documents that were
5 brought to me yesterday by either of the
6 two deponents today, neither from Alex
7 Infantino nor Andy Lavallee.

8 Further, the production request --
9 the response to production request that I
10 provided to Attorney Gorman earlier today,
11 during the first deposition, applies equal
12 to this particular deposition from the
13 party.

14 With that, I'll leave the
15 questioning to you and sit back.

16 (Composite Exhibits C1 through C4,
17 color photographs, marked)

18 (Composite Exhibit D, Precision
19 paper saw brochure, marked)

20 (Composite Exhibit E, drawings,
21 designated Confidential, marked)

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1
2 (Composite Exhibit F, blueprints,
3 designated Confidential, marked)
4
5 (Composite Exhibit G, videotape,
6 marked)
7
8 (Composite Exhibit H, purchase
9 orders, under cover sheet "4 Chain Saws,"
10 designated Confidential, Counsel and
11 Experts Only, marked)
12
13 (Composite Exhibit I, purchase
14 orders, designated Confidential, Counsel
15 and Experts Only, marked)
16
17 MR. GORMAN: Okay. Just for the
18 record, so to make sure we've got them
19 lined up, we've got C1 through 4 as a
20 composite, which is four photographs. D,
21 which is a copy of gray background, black
22 print, Sterling Technology, Inc. brochure.
23 Composite Exhibit E is a series of drawings
24 and copies of drawings, apparently undated.

31

1 Composite F is a series of drawings which
2 appears to be ink and whiteout, and
3 photocopy, and ink on photocopy, with some
4 handwritten notations in places, and
5 dimensions. These are also undated?
6 MR. HOLLAND: And E and F are
7 confidential, to be marked confidential.
8 MR. THOMAS: Do you want me to go
9 out of the room when you talk about them?
10 MR. GORMAN: Only the ones that are
11 Confidential, Counsel and Expert Only,
12 which I think was the next two.
13 G -- or, excuse me. G is the video
14 that's been delivered. And H and I are
15 composites of records of -- first one, the
16 cover sheet of "4 Chain Saws," with
17 various, apparently, invoices and purchase
18 orders, with various dates, and has been
19 indicated as Confidential, Counsel and
20 Expert Only, I think?
21 MR. HOLLAND: Right.
22 MR. GORMAN: Okay. And, I, similar:
23 Copies of purchase orders, serial-numbered,
24 and dated. Some may be copies, some with

32

1 signatures. Also noted as Confidential,
2 Counsel and Expert.
3 Q. (By Mr. Gorman) Okay, why don't we
4 just go to the photographs. There's no dates on
5 these. When were these taken?
6 A. There's a date on them.
7 Q. There is?
8 A. Yes, there is.
9 Q. Where's the date on them?
10 A. Right below my thumb.
11 Q. Okay. April '98. And do you know
12 whether that was processing date? Or how soon
13 after they were taken were they processed?
14 A. Probably the next day.
15 Q. And how far did you travel to take
16 these?
17 A. I'd say about a hundred miles.
18 Q. About a hundred miles. So somewhere
19 within a hundred-mile radius. Do you know which
20 direction?
21 A. They were in southern Connecticut.
22 I can tell you that.
23 Q. Eastern Graphics?
24 A. Possibly.

33

1 Q. Possibly?
2 A. I'm not sure. It could be.
3 Q. How is it that you went down to
4 Eastern Graphics to take these photographs?
5 A. My employer asked me to go down.
6 Q. And what did Mr. Gubb tell you?
7 A. He said that they had a saw that
8 they were demonstrating. Or they were -- not
9 demonstrating, I shouldn't say -- cutting rolls
10 of paper with, at this particular location. I'm
11 not sure of the name. And he asked me to go down
12 and look at it.
13 Q. Did he tell you why?
14 A. To see if it was similar to what we
15 were working on.
16 Q. And at that point, what were you
17 working on?
18 A. A device similar to that.
19 Q. And what was your status -- stage of
20 work, or status?
21 A. We were at the point we had most of
22 it built. But we were trying to run it with a --
23 an electrical motor, with a gearbox.
24 Q. Yep.

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1 A. Which didn't produce a very good
2 cut.
3 Q. Had a prototype been built?
4 A. This was the prototype. Or, I'm
5 sorry, there was a prototype before that, which
6 was very crude in nature.
7 Q. And where is that device currently
8 located?
9 A. That was all cut up and parts used
10 for different things.
11 Q. Okay, when was that device
12 fabricated?
13 A. Mid-1970s.
14 Q. And by whom was that fabricated?
15 A. By L&P Converters.
16 MR. HOLLAND: Clarify: What did you
17 say? Mid -- mid what?
18 A. 1970s -- I'm -- '97. I'm sorry. I
19 keep doing that. 1997.
20 Q. (By Mr. Gorman) And what did they
21 do? Did they ever take that prototype out
22 anywhere?
23 A. No.
24 Q. Tested merely inside.

1 first one, yeah.
2 Q. Okay. And yet you indicate that it
3 was sometime in mid '97 that you first conceived?
4 A. Yes.
5 Q. What part -- and what was your
6 contribution in conceiving this device?
7 A. My knowledge of the paper industry,
8 the machinery.
9 Q. And what was the purpose, or goal,
10 of the device that you conceived?
11 A. An alternate method of cutting
12 paper.
13 Q. Are you an owner in L&P Converters?
14 A. No, I'm not.
15 Q. And what was Mr. Gubb's involvement
16 in the conception?
17 A. I can't say.
18 Q. Well, was it strictly your
19 conception, then?
20 A. No. Well, I'm sorry. He offered --
21 something to the effect that we could cut it with
22 a saw.
23 Q. That was his sole contribution, cut
24 it with a saw?

35

37

1 A. Yes.
2 Q. Now, who, to your understanding,
3 first had the concept for this device? Did you?
4 A. Yes. Well, myself and Mr. Gubb --
5 Q. And --
6 A. -- talked about it.
7 Q. And when did you and Mr. Gubb
8 conceive of this device?
9 A. Just before midpart of '97.
10 Q. And where are the initial drawings
11 of it?
12 A. We didn't have any drawings. We
13 just fabricated and were experimenting with
14 different things.
15 Q. When, specifically, did you first
16 present a prototype? Complete a prototype?
17 A. Probably on towards the midpart of
18 '98.
19 Q. And there were, prior to that time,
20 no drawings or depictions; is that correct?
21 A. No drawings till that time, no.
22 Till we made a complete saw.
23 Q. And that was in mid '98?
24 A. When we furnished -- finished the

1 A. Yes. He said to pursue those ideas,
2 those lines. To cut it with a saw.
3 Q. And that was his statement to you
4 in, what, mid '97?
5 A. Actually, we started a long time
6 before that with the chain saws.
7 Q. That's the way you did it until
8 sometime in 1998 or 1999. Correct?
9 A. Well, we still have.
10 Q. You still -- you still use chain
11 saws?
12 A. Oh, yes.
13 Q. What percentage of the rolls
14 processed in your plant are done with chain saws?
15 A. I have no idea. I can't answer that
16 question.
17 Q. And why not?
18 A. Because it's not my line. I'm the
19 mechanic, maintenance mechanic.
20 Q. Who designed the electrical system
21 for this first prototype?
22 A. My company electrician did.
23 Q. Is he a licensed electrician?
24 A. Yes, he is.

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<p style="text-align: right;">38</p> <p>1 Q. Journeyman?</p> <p>2 A. Master.</p> <p>3 Q. And what's his name?</p> <p>4 A. Bret, B-R-E-T, Gullifer.</p> <p>5 G-U-L-L-I-F-E-R.</p> <p>6 Q. Bret?</p> <p>7 A. Yes.</p> <p>8 Q. Gullifer?</p> <p>9 A. Right.</p> <p>10 Q. Now, of this first prototype, were</p> <p>11 there any photographs taken?</p> <p>12 A. Yes, there was.</p> <p>13 Q. Where are they presently?</p> <p>14 A. I'm sorry, you're talking about --</p> <p>15 Q. Your first prototype in mid '98.</p> <p>16 A. -- the chain saw --</p> <p>17 No, there were no photographs taken.</p> <p>18 Q. Okay, now, did this device utilize</p> <p>19 chain saws?</p> <p>20 A. No.</p> <p>21 Q. What type of saws did that use?</p> <p>22 A. We tried it with an air motor, with</p> <p>23 a circular knife blade.</p> <p>24 Q. What do you mean, a circular knife</p>	<p style="text-align: right;">40</p> <p>1 A. No.</p> <p>2 Q. Where was he at the time?</p> <p>3 A. I don't remember.</p> <p>4 Q. Did he tell you that he learned</p> <p>5 about it because the company, Norkol/Fibercore,</p> <p>6 had offered its roll cutter services to him?</p> <p>7 A. He didn't say.</p> <p>8 Q. Have you at any time identified</p> <p>9 yourself to anybody as Mr. Gubb?</p> <p>10 A. No.</p> <p>11 Q. When you took the photographs in</p> <p>12 April, did you introduce yourself?</p> <p>13 A. As just someone from the L&P</p> <p>14 Converters.</p> <p>15 Q. You didn't give them your name?</p> <p>16 A. I probably gave them my name. I'm</p> <p>17 not sure.</p> <p>18 Q. What did you tell your purpose was?</p> <p>19 A. Just to view the saw.</p> <p>20 Q. View the saw?</p> <p>21 A. Mm-hmm.</p> <p>22 Q. Did you express interest in</p> <p>23 utilizing the company's services?</p> <p>24 A. No. He just asked me to go down and</p>
<p style="text-align: right;">39</p> <p>1 blade?</p> <p>2 A. It's called a splitter blade.</p> <p>3 Q. Was there ever a physical</p> <p>4 description drawn up of this device?</p> <p>5 A. No.</p> <p>6 Q. Were there drawings made?</p> <p>7 A. No.</p> <p>8 Q. No drawings made.</p> <p>9 A. They kept changing them. No.</p> <p>10 Q. Are any of the -- are there any</p> <p>11 documents in existence relative to this device?</p> <p>12 A. No.</p> <p>13 Q. So, as of the spring of '98, you</p> <p>14 were tinkering with certain ideas, but had no</p> <p>15 drawings, no final plan, no device designed.</p> <p>16 Correct?</p> <p>17 A. Correct.</p> <p>18 Q. You didn't have any methodology</p> <p>19 drawn out and drafted up, did you?</p> <p>20 A. No.</p> <p>21 Q. And did Mr. Gubb tell you how he</p> <p>22 learned about this saw?</p> <p>23 A. No, he did not.</p> <p>24 Q. And did he go with you on that trip?</p>	<p style="text-align: right;">41</p> <p>1 view the saw.</p> <p>2 Q. Who is "he"?</p> <p>3 A. Mr. Gubb.</p> <p>4 Q. Mr. Gubb. Okay.</p> <p>5 A. Mm-hmm.</p> <p>6 Q. Now, when you got to that point --</p> <p>7 A. Yes.</p> <p>8 Q. -- the individual -- who -- how did</p> <p>9 you get inside the building?</p> <p>10 MR. HOLLAND: Objection as to form.</p> <p>11 Q. (By Mr. Gorman) Was there any</p> <p>12 security there?</p> <p>13 A. No. I went in the office and asked</p> <p>14 for whoever -- wherever they were cutting paper.</p> <p>15 Q. Did you identify yourself?</p> <p>16 A. Yes.</p> <p>17 Q. As whom?</p> <p>18 A. Andre Lavallee.</p> <p>19 Q. And did you identify your company?</p> <p>20 A. Yes.</p> <p>21 Q. And your desire to be there?</p> <p>22 A. Just to view the saw.</p> <p>23 Q. What time of day was it?</p> <p>24 A. I don't recall.</p>

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1 Q. About midday?
 2 A. I don't believe -- no, it wasn't
 3 night. It was daytime.
 4 Q. About midday?
 5 A. Oh, possibly. I don't know. I
 6 don't remember.
 7 Q. Lunchtime, perhaps?
 8 A. I don't remember.
 9 Q. Was the machine being operated when
 10 you got to it?
 11 A. Yes.
 12 Q. How long were you there?
 13 A. Half an hour.
 14 Q. How many photographs did you take?
 15 A. Four.
 16 Q. In a half hour, you only took four
 17 photographs?
 18 A. That's all I had in the camera.
 19 Q. Did you identify yourself to the
 20 individual operating the equipment?
 21 A. Yes.
 22 Q. How did you introduce yourself?
 23 A. My name and company.
 24 Q. And did you deliver these to

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1 Mr. Gubb?
 2 A. I showed them to him, yes.
 3 Q. When did you show the photographs to
 4 Mr. Gubb?
 5 A. I don't remember exactly.
 6 Q. These photographs here, are these
 7 the originals?
 8 A. Yes.
 9 Q. The original ones?
 10 A. Yep.
 11 Q. Has there been any copies made of
 12 these?
 13 A. No.
 14 MR. HOLLAND: So on that -- what do
 15 you want to do, for mechanics?
 16 MR. GORMAN: Color laser photos.
 17 Color laser prints. Easiest things to do
 18 it.
 19 MR. HOLLAND: Can we keep the
 20 originals, and you'll make a copy? And
 21 we'll make an agreement to substitute them?
 22 MR. GORMAN: Yeah. I want to get a
 23 copy of the backs, as to dates and
 24 processing.

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1 MR. HOLLAND: Sure. But you would
 2 return the originals within thirty days?
 3 MR. GORMAN: Sooner. I'll be glad
 4 to provide you with not only the originals,
 5 but two to three copies. With all the
 6 different counsel involved, just tell me
 7 who to send them to.
 8 Q. (By Mr. Gorman) What did Mr. Gubb
 9 say when you showed him these photographs?
 10 A. He said it was similar to ours.
 11 Q. Well, you didn't have a device
 12 planned or built at that time, did you?
 13 A. Oh, we were working on one.
 14 Q. But you had no plans, did you?
 15 A. No.
 16 Q. Did you check as to -- was a patent
 17 search conducted at that time?
 18 A. I don't believe so.
 19 Q. Did the -- did you ascertain whether
 20 or not -- did you -- strike that.
 21 Did you make an inspection of this
 22 equipment, closely?
 23 A. No.
 24 Q. In what way was this similar to what

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1 you were working on?
 2 MR. HOLLAND: Objection as to form.
 3 Please define "similar" or ask the witness.
 4 Q. (By Mr. Gorman) What components or
 5 methodologies of this machine in C1 were similar
 6 to what you and Mr. Gubb were working on?
 7 MR. HOLLAND: Same objection.
 8 A. Turntable and the post.
 9 Q. (By Mr. Gorman) Turntable and a
 10 post.
 11 A. Mm-hmm.
 12 Q. Okay. How about the lateral arm?
 13 A. There was an arm, yes.
 14 Q. Now, at that time, you were building
 15 one that you subsequently decided didn't work
 16 properly. Correct?
 17 A. Mm-hmm.
 18 Q. Is that a yes?
 19 A. Yes.
 20 Q. And did anybody -- have you ever
 21 seen any other photographs of this -- of this
 22 device?
 23 A. Of that? No.
 24 Q. Of any one similar to it, other than

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<p style="text-align: right;">62</p> <p>1 A. He did.</p> <p>2 Q. And when did he tell you that?</p> <p>3 A. I don't remember.</p> <p>4 Q. Well, was it in the last six months?</p> <p>5 A. I don't remember.</p> <p>6 Q. Was it in the past year?</p> <p>7 A. I would say so, but I'm not sure.</p> <p>8 I'm just --</p> <p>9 Q. Okay. Was it before you took these</p> <p>10 photographs, Exhibit C?</p> <p>11 A. No.</p> <p>12 Q. Was it before the photographs were</p> <p>13 taken for the brochure?</p> <p>14 A. I don't know.</p> <p>15 Q. Did you assign the concept to</p> <p>16 Mr. Gubb in writing?</p> <p>17 A. He gave me a paper from an attorney</p> <p>18 to sign.</p> <p>19 Q. And when did you sign it?</p> <p>20 A. I don't remember.</p> <p>21 Q. You don't remember. Did you keep a</p> <p>22 copy of it?</p> <p>23 A. No.</p> <p>24 Q. Okay. So you took something -- did</p>	<p style="text-align: right;">64</p> <p>1 Q. And there was -- until you got into</p> <p>2 the development of the 60 machine, did you have</p> <p>3 any drawings? Is that correct?</p> <p>4 A. No drawings, no.</p> <p>5 Q. None.</p> <p>6 A. No.</p> <p>7 Q. So, in other words, correct, until</p> <p>8 you got into that -- so the first, even,</p> <p>9 conversations of using saws, without any</p> <p>10 discussion of a device or a methodology, was in</p> <p>11 mid '97. Correct?</p> <p>12 A. No. Because we built chain saws</p> <p>13 prior to that.</p> <p>14 Q. Well, okay. Chain saws. But what</p> <p>15 do you mean -- chain saws you built. What do you</p> <p>16 mean? You built chain saws?</p> <p>17 A. We built chain saws to cut rolls of</p> <p>18 paper.</p> <p>19 Q. Okay. And, now, that was -- that</p> <p>20 was on -- laying them horizontal --</p> <p>21 A. Horizontally, yeah.</p> <p>22 Q. -- and cutting down through them.</p> <p>23 Right?</p> <p>24 A. Yes.</p>
<p style="text-align: right;">63</p> <p>1 you take it to an attorney to be reviewed?</p> <p>2 A. No.</p> <p>3 Q. He gave you something, told you to</p> <p>4 sign it, you signed it?</p> <p>5 A. Mm-hmm.</p> <p>6 Q. Is that yes?</p> <p>7 A. Yes.</p> <p>8 Q. You didn't keep a copy of it.</p> <p>9 A. No.</p> <p>10 Q. Did he pay you?</p> <p>11 A. No.</p> <p>12 MR. HOLLAND: Good time for a break?</p> <p>13 MR. GORMAN: Sure. Why not.</p> <p>14</p> <p>15 (A recess was taken)</p> <p>16</p> <p>17 MR. GORMAN: Let me just clarify.</p> <p>18 regroup here a second.</p> <p>19 Q. (By Mr. Gorman) You and Mr. Gubb</p> <p>20 first had conversations about this concept, where</p> <p>21 he said, you know, "Use a saw." Now, at that</p> <p>22 time, there was no concept, no method. He just</p> <p>23 says, "Well, maybe we can use a saw." Correct?</p> <p>24 A. Correct.</p>	<p style="text-align: right;">65</p> <p>1 Q. When's the first time you tried</p> <p>2 anything to cut paper rolls while they were in a</p> <p>3 vertical?</p> <p>4 A. We started doing that in mid '97.</p> <p>5 Probably towards the end of '97. Mid to</p> <p>6 three-quarters of the way through '97.</p> <p>7 Q. This is where you first started</p> <p>8 getting the concept?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And there are no diaries or</p> <p>11 anything else --</p> <p>12 A. No. We just --</p> <p>13 Q. -- evidencing dates or anything</p> <p>14 else. Correct?</p> <p>15 A. Nope.</p> <p>16 Q. And the concepts that you had did</p> <p>17 not work. Correct?</p> <p>18 A. Did not work the way we wanted them</p> <p>19 to, no.</p> <p>20 Q. Okay. Now, you then started working</p> <p>21 on a different design?</p> <p>22 A. Mm-hmm.</p> <p>23 Q. And that was early '98.</p> <p>24 A. Yeah. At the end of '97, early '98.</p>

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1 Q. And that evolved into the 60-inch --
 2 A. Yes.
 3 Q. -- turntable.
 4 A. Yes.
 5 Q. Now, did the one that you were
 6 working on before have a turntable?
 7 A. Yes.
 8 Q. Did it have a post?
 9 A. Yes.
 10 Q. And the -- okay. Now, did you share
 11 your ideas with anybody but Mr. Gubb?
 12 A. Well, basically, every one in the
 13 plant. But Mr. Gubb and myself are the ones that
 14 conferred on it, mostly.
 15 Q. Oh, okay. So you had -- this was
 16 being spread among -- how many people worked in
 17 the plant at that time?
 18 A. Well, there's fifty people that
 19 worked there.
 20 Q. And everybody knew about what was
 21 going on?
 22 A. Well, yeah. The shop's right out in
 23 the open.
 24 Q. Okay. Now, did you have discussions

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1 A. Not at that time.
 2 Q. Was he a licensed electrical
 3 contractor at that time?
 4 A. Yes.
 5 Q. And what information was given to
 6 him? And when was he first retained on this
 7 project?
 8 A. Mid '97. And we just told him what
 9 we were trying to do.
 10 Q. What did you tell him?
 11 A. That we were trying to build
 12 something to cut rolls of paper.
 13 Q. Did you tell him anything more?
 14 A. Basically, no.
 15 Q. Did he submit invoices for his work?
 16 A. I don't recall. I don't know.
 17 Q. Did -- was he paid for his work at
 18 any point in time?
 19 A. I would guess that he was. I'm just
 20 guessing.
 21 Q. Who would approve those?
 22 A. The office.
 23 Q. Who in the office?
 24 A. Margaret DiSantis.

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1 about what you were attempting to do --
 2 A. No.
 3 Q. -- with Alex Infantino?
 4 A. Not at that time.
 5 Q. Okay. Now, did you talk to anybody
 6 outside the company?
 7 A. Just my electrician.
 8 Q. Okay. Now, he's not an employee
 9 then, the electrician?
 10 A. No. He's on call.
 11 Q. So he's an electrical contractor in
 12 the area?
 13 A. Yeah. But he works for someone
 14 else.
 15 Q. Who does he work for?
 16 A. A company called LeBlanc,
 17 L-E-B-L-A-N-C, Electric.
 18 Q. Okay. So Bret works as an employee
 19 of LeBlanc Electric.
 20 A. Yes.
 21 Q. Is he a licensed electrical
 22 contractor?
 23 A. Yes.
 24 Q. Is he an owner in LeBlanc Electric?

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1 Q. What's her position?
 2 A. The office manager.
 3 Q. And how was she provided with
 4 information, to know whether the work was
 5 performed or not?
 6 A. She must have got an invoice from
 7 them. I don't know. I don't get involved with
 8 that.
 9 Q. Okay. Would she have had a
 10 responsibility to ascertain if the services had
 11 actually been performed and the payment was due?
 12 A. Not as a rule.
 13 Q. Okay. Would it have been required
 14 to be approved by Martin Gubb?
 15 A. I believe so.
 16 Q. Who laid out the brochure?
 17 A. I'm not sure.
 18 Q. Did you lay it out?
 19 A. No.
 20 Q. Did you have any involvement in it,
 21 other than taking the photographs?
 22 A. No.
 23 Q. Okay, now, after the prototype was
 24 scrapped and you started on the next machine --

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<p style="text-align: right;">70</p> <p>1 A. Yes.</p> <p>2 Q. -- when was that machine completed?</p> <p>3 A. Early part of '98.</p> <p>4 Q. How long did it take to build it?</p> <p>5 A. Three, maybe four months.</p> <p>6 Q. Okay. So when you say early part of</p> <p>7 '98, when in -- what month in '98 was it</p> <p>8 completed?</p> <p>9 A. I'm not sure.</p> <p>10 Q. Was it completed before these</p> <p>11 photographs were taken, Exhibit C?</p> <p>12 A. No.</p> <p>13 Q. As of the time these photographs</p> <p>14 were taken by you, what was the percentage of</p> <p>15 completion or status of the saw number 1?</p> <p>16 A. I may correct that. The saw was</p> <p>17 built. We changed the hydraulic motor on it, to</p> <p>18 drive the saw blade.</p> <p>19 Q. Why is that?</p> <p>20 A. We were using an electric motor with</p> <p>21 a gearbox.</p> <p>22 Q. Why did you change it to hydraulic?</p> <p>23 A. Because it seemed to work better</p> <p>24 when we saw this saw.</p>	<p style="text-align: right;">72</p> <p>1 Q. Of competitors?</p> <p>2 MR. HOLLAND: Objection as to form.</p> <p>3 A. Of machinery for sale.</p> <p>4 Q. (By Mr. Gorman) Well, did anyone</p> <p>5 tell you that this saw was for sale?</p> <p>6 A. No.</p> <p>7 Q. Exhibit C?</p> <p>8 A. No.</p> <p>9 Q. Did he tell you that he had been</p> <p>10 told it was for sale?</p> <p>11 A. No. He didn't confide in me, no.</p> <p>12 Q. Has he sent you out to photograph</p> <p>13 envelope makers?</p> <p>14 A. No.</p> <p>15 Q. What types of equipment has he sent</p> <p>16 you out to photograph besides this saw?</p> <p>17 A. Converting machinery.</p> <p>18 Q. What type of converting machinery?</p> <p>19 A. Rewinders, sheeters, guillotines.</p> <p>20 Q. Produced by competitors?</p> <p>21 A. No. Paper -- the machines that we</p> <p>22 use in the plant.</p> <p>23 Q. And how many times has he sent you</p> <p>24 out to photograph somebody else's equipment that</p>
<p style="text-align: right;">71</p> <p>1 Q. In other words, you decided that</p> <p>2 this saw was a better saw.</p> <p>3 A. I said the motor was working better.</p> <p>4 Q. Now, do you customarily drive one</p> <p>5 hundred miles each way for your business, for the</p> <p>6 company?</p> <p>7 A. Rephrase that.</p> <p>8 Q. Well, as a part of your normal</p> <p>9 duties, do you drive a hundred miles a day?</p> <p>10 A. No.</p> <p>11 Q. Do you drive two hundred miles a</p> <p>12 day?</p> <p>13 A. No.</p> <p>14 Q. You're normally right there at the</p> <p>15 plant, aren't you?</p> <p>16 A. Most times.</p> <p>17 Q. Has Mr. Gubb, at any time since,</p> <p>18 sent you out to do any other photo surveillance?</p> <p>19 MR. HOLLAND: Objection as to form.</p> <p>20 A. To do surveillance?</p> <p>21 Q. (By Mr. Gorman) Sure. Mr. Gubb</p> <p>22 send you out to do -- take photographs of other</p> <p>23 equipment around?</p> <p>24 A. All kinds.</p>	<p style="text-align: right;">73</p> <p>1 he is not looking at to purchase, where you've</p> <p>2 traveled more than a hundred miles each way?</p> <p>3 A. Don't recall.</p> <p>4 Q. More than once?</p> <p>5 A. I don't recall. I don't know if I</p> <p>6 ever did or not. I'm not sure.</p> <p>7 Q. Now, you traveled that day more than</p> <p>8 two hundred miles. Did you seek reimbursement</p> <p>9 for your mileage?</p> <p>10 A. No. It was one -- I was on the</p> <p>11 payroll.</p> <p>12 Q. Pardon?</p> <p>13 A. I was on the payroll.</p> <p>14 Q. Well, how are you compensated? Are</p> <p>15 you salary? Hourly?</p> <p>16 A. Hourly.</p> <p>17 Q. And you weren't reimbursed for</p> <p>18 travel?</p> <p>19 A. No.</p> <p>20 Q. You take your car or the company</p> <p>21 car?</p> <p>22 A. Company car.</p> <p>23 Q. Is there a log kept on the company</p> <p>24 car?</p>

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<p style="text-align: right;">74</p> <p>1 A. No.</p> <p>2 Q. Do you always have the company car?</p> <p>3 A. Not on my -- not at my disposal.</p> <p>4 Just at the plant.</p> <p>5 Q. What was the company car at that</p> <p>6 time?</p> <p>7 A. It was a pickup truck.</p> <p>8 Q. And Mr. Gubb, was he in</p> <p>9 Massachusetts at the time you were sent down</p> <p>10 there?</p> <p>11 A. I don't recall.</p> <p>12 Q. Well, when you showed him the</p> <p>13 photographs, was he in Massachusetts?</p> <p>14 A. Yes.</p> <p>15 Q. And how long after they were taken</p> <p>16 was that?</p> <p>17 A. I don't recall.</p> <p>18 Q. How often does Mr. Gubb come to</p> <p>19 Massachusetts?</p> <p>20 A. At the moment, about every five or</p> <p>21 six weeks.</p> <p>22 Q. How about during 1998?</p> <p>23 A. I don't recall.</p> <p>24 Q. Would it be a fair statement that</p>	<p style="text-align: right;">76</p> <p>1 A. You have some in there.</p> <p>2 Q. Okay. I'm assuming that would be E</p> <p>3 or F?</p> <p>4 A. I don't know.</p> <p>5 Q. Let's take Composite E.</p> <p>6 A. Mm-hmm. Yep.</p> <p>7 Q. Tell us what those are, please.</p> <p>8 A. That's a turntable.</p> <p>9 Q. Well, that's the top drawing.</p> <p>10 That's the turntable.</p> <p>11 A. Yeah.</p> <p>12 Q. What -- who prepared these drawings?</p> <p>13 A. I sketched some out, and he</p> <p>14 formalized them. The other ones I just drew</p> <p>15 myself.</p> <p>16 Q. Right. Well, going through</p> <p>17 Composite Exhibit E, which of those did you draw?</p> <p>18 A. I sketched this out and gave him an</p> <p>19 idea, and he completed it and refined it.</p> <p>20 Q. Well, where is your original</p> <p>21 sketches?</p> <p>22 A. I don't have an original sketch for</p> <p>23 that part of it.</p> <p>24 Q. But that part of it being the first</p>
<p style="text-align: right;">75</p> <p>1 you don't recall when the first machine was</p> <p>2 completed?</p> <p>3 A. To the exact date?</p> <p>4 Q. Okay, are there any documents that</p> <p>5 would evidence when that first machine was</p> <p>6 completed?</p> <p>7 A. No.</p> <p>8 Q. Are there any documents that would</p> <p>9 indicate when any of the other machines were</p> <p>10 completed?</p> <p>11 MR. HOLLAND: Objection as to form.</p> <p>12 A. Not really as the complete units,</p> <p>13 no.</p> <p>14 Q. (By Mr. Gorman) Did you at any time</p> <p>15 provide, by fax, drawings to Alex Infantino?</p> <p>16 A. Yes.</p> <p>17 Q. When was that?</p> <p>18 A. At various times. He continually</p> <p>19 makes parts for me.</p> <p>20 Q. When did you first forward to him</p> <p>21 any drawings for parts for these Precision paper</p> <p>22 saws?</p> <p>23 A. Towards the end of '97. Early '98.</p> <p>24 Q. And do you have those drawings?</p>	<p style="text-align: right;">77</p> <p>1 page of Composite E?</p> <p>2 A. Yes.</p> <p>3 Q. Why don't you have a sketch of it?</p> <p>4 A. I really can't answer that. I don't</p> <p>5 know.</p> <p>6 Q. Did you have a sketch of that?</p> <p>7 A. Yes, I did.</p> <p>8 Q. And what did you do with that</p> <p>9 sketch?</p> <p>10 A. I'm not sure.</p> <p>11 Q. Have you looked for that sketch?</p> <p>12 A. I can tell you, it's not in the</p> <p>13 folder.</p> <p>14 Q. What folder is that?</p> <p>15 A. The folder where all of this was.</p> <p>16 Q. When did you last see the original</p> <p>17 sketch?</p> <p>18 A. I don't know.</p> <p>19 Q. Was that original sketch dated?</p> <p>20 A. No.</p> <p>21 Q. Were any of the drawings dated?</p> <p>22 A. None of mine were dated.</p> <p>23 Q. So you don't know when they were</p> <p>24 prepared, do you?</p>

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<p style="text-align: right;">158</p> <p>1 documents and information that he sent out?</p> <p>2 A. No.</p> <p>3 MR. GORMAN: Number 18.</p> <p>4</p> <p>5 (Exhibit 18, 8/25/00 letter,</p> <p>6 Clemmons to [redacted], marked)</p> <p>7</p> <p>8 (Exhibit 19, 10/27/00 letter,</p> <p>9 Clemmons to [redacted], with attached</p> <p>10 quote, marked)</p> <p>11</p> <p>12 Q. (By Mr. Gorman) Let me show you</p> <p>13 Exhibit No. 18 and ask you if you've seen that</p> <p>14 before.</p> <p>15 A. I haven't seen this paper, no.</p> <p>16 Q. Who did you answer to at the L&P</p> <p>17 Converters plant, on Route 679, on a day-to-day</p> <p>18 basis?</p> <p>19 A. Who did I answer to?</p> <p>20 Q. Yeah.</p> <p>21 A. No one except Mr. Gubb.</p> <p>22 Q. So you, basically, were the senior</p> <p>23 person there?</p> <p>24 A. No. In maintenance, yes. Everybody</p>	<p style="text-align: right;">160</p> <p>1 * Q. Office. Okay. Well, can you</p> <p>2 explain to us why you, as maintenance, would be</p> <p>3 the one they'd ship materials for, as a part of a</p> <p>4 promotional campaign to sell an expensive piece</p> <p>5 of equipment?</p> <p>6 A. Rephrase that, please?</p> <p>7 MR. GORMAN: Read it back, please.</p> <p>8</p> <p>9 * (Record was read back)</p> <p>10</p> <p>11 A. I don't know what you mean by</p> <p>12 shipping material.</p> <p>13 Q. (By Mr. Gorman) Well, it says here,</p> <p>14 "Ship the roll to L&P Converters, Route 12,</p> <p>15 number 1800, in care of Mr. Andy Lavallee." You</p> <p>16 weren't in receiving, were you?</p> <p>17 A. No.</p> <p>18 Q. You weren't in production, were you?</p> <p>19 A. No.</p> <p>20 Q. Did you wear the --</p> <p>21 A. Why they did that I don't know.</p> <p>22 Q. Did you wear the jacket and tie for</p> <p>23 me today?</p> <p>24 A. Of course I did.</p>
<p style="text-align: right;">159</p> <p>1 has their own job.</p> <p>2 Q. Well, why would maintenance be the</p> <p>3 ones -- what other departments were there?</p> <p>4 A. There's production. And there was</p> <p>5 traffic.</p> <p>6 Q. Yep.</p> <p>7 A. Shipping and receiving.</p> <p>8 Q. Okay. What's the difference between</p> <p>9 traffic and shipping and receiving? Or are you</p> <p>10 using them interchangeably?</p> <p>11 A. Well, we have a ship -- we have a</p> <p>12 traffic manager and people who do strictly</p> <p>13 shipping and receiving in the warehouse.</p> <p>14 Q. Okay. I'm not sure I understand,</p> <p>15 but what duties would the traffic manager have</p> <p>16 that would not be related to shipping and</p> <p>17 receiving?</p> <p>18 A. Well, actually, none. But there are</p> <p>19 people who work in the shipping and the receiving</p> <p>20 end, in the warehouse, that don't have anything</p> <p>21 to do with the traffic.</p> <p>22 Q. Okay. Now, so we've got maybe four</p> <p>23 departments. Are there more than that?</p> <p>24 A. Oh, the office.</p>	<p style="text-align: right;">161</p> <p>1 Q. You did. I'm impressed. Is that</p> <p>2 how you dress for work every day?</p> <p>3 A. No.</p> <p>4 Q. Is that how you went to the office?</p> <p>5 Did you go to work earlier today?</p> <p>6 A. I dress informally.</p> <p>7 Q. Did you go to work earlier today?</p> <p>8 A. No. I'm on vacation.</p> <p>9 Q. Oh, I'm sorry to pull you from your</p> <p>10 vacation. I apologize for that, you know.</p> <p>11 A. Accepted.</p> <p>12 Q. Did rolls come in, under this</p> <p>13 program?</p> <p>14 A. We may have gotten a couple of</p> <p>15 different rolls. I'm -- you know, that I can</p> <p>16 remember. I don't remember who it was for or --</p> <p>17 Q. And there were -- they came to</p> <p>18 you -- they dropped them by your office, or what?</p> <p>19 A. Oh, no. I was just told that they</p> <p>20 were there.</p> <p>21 Q. What did you do?</p> <p>22 A. I arranged to make sure the operator</p> <p>23 knew what he had to do with the roll.</p> <p>24 Q. In other words, production.</p>

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1 A. Mmm.
 2 Q You gave instructions to production?
 3 A. Yes.
 4 Q. Who is the production manager?
 5 A. Right now it's Milton Soto.
 6 Q. Who was then, in --
 7 A. Marcial Alicea.
 8 Q. He's one of the operators. He's
 9 also production manager?
 10 A. No. The operator?
 11 Q. Wait a second. Marcello Alicea.
 12 That's one of your --
 13 A. No. Senior.
 14 Q. So you got two Marcellos?
 15 A. Marcial Alicea, Jr., worked for me.
 16 Marcial Alicea, Sr., was a production manager.
 17 Q. Okay. And why isn't it that that
 18 was directed to Marcello Alicea, Sr.?
 19 A. I have no idea. I don't know.
 20 Q. Well, when did you first become
 21 aware that these were going out like that?
 22 A. I can't say that I ever really saw
 23 that. But --
 24 Q. Well --

1 MR. GORMAN: Well, I mean, that's --
 2 you know, it would probably make this case
 3 a lot easier.
 4 Q. (By Mr. Gorman) In the time that
 5 you've been utilizing the Precision paper saws at
 6 L&P, have there been any injuries?
 7 A. No.
 8 Q. Who would have records as to the --
 9 strike that.
 10 Who, if anyone, would have records
 11 as to the actual usage of the three different
 12 saws?
 13 A. I'm not sure who has the records.
 14 Q. But the production manager is
 15 Marcial Alicea, Sr.
 16 A. At -- no, now it's Milton Soto.
 17 Q. Did Marcial leave the company?
 18 Senior?
 19 A. Yes. He retired.
 20 Q. He retired, okay. When did he
 21 retire?
 22 A. About a year, year and a half ago,
 23 somewhere around there.
 24 The name that you were looking for

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1 A. I didn't pay any attention to it.
 2 Somebody told me about a roll of paper; I just
 3 passed it on.
 4 Q. Number 19, had you seen that
 5 previously?
 6 A. No. I can't say that I've seen
 7 this, either.
 8 Q. To your knowledge, does L&P
 9 Converters have product liability insurance?
 10 A. I believe they have, yes.
 11 Q. Do you have any involvement in
 12 arranging that?
 13 A. No.
 14 Q. Do you have any information as to
 15 the limits of coverage?
 16 A. No.
 17 Q. Do you know whether or not that
 18 insurance provides any coverages for defense of
 19 patent infringement?
 20 A. I don't know.
 21 MR. GORMAN: (Indicating)
 22 MR. HOLLAND: I appreciate the
 23 compliment. But, no, I don't -- I'm not
 24 into that.

1 before, that Jose is Collazo [phonetic].
 2 Q. Yazo, Y-A-Z-O?
 3 A. No. Collazo. C-O-L-I-Z-I --
 4 Q. I-Z-O?
 5 A. C-O-L-I -- I'm not sure if it's an
 6 S-O or a Z-O. I'm not sure.
 7 Q. Colizo?
 8 A. I'm sorry. L-I-A-Z-O, probably.
 9 Q. During the time of the deposition
 10 here this afternoon, Mr. Lavallee --
 11 A. Mm-hmm.
 12 Q. -- have you recovered any
 13 recollection of any communications with the
 14 gentleman sitting to my left?
 15 A. Yes. Now I --
 16 Q. What do you remember about the
 17 gentleman sitting to my left?
 18 A. I just remember that he -- we had a
 19 demonstration for him.
 20 Q. Do you recall when that
 21 demonstration was done?
 22 A. No, I don't remember.
 23 Q. Do you recall whether he was
 24 accompanied by any other individual when that

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KEYCITE

▶ **Al-Site Corp. v. VSI Intern., Inc.**, 174 F.3d 1308, 50 U.S.P.Q.2d 1161 (Fed.Cir., Mar 30, 1999) (NO. 97-1593, 98-1008)

History
Direct History

- H** 1 HANGER FOR DISPLAYING EYEGLASSES, US PAT 4976532, 1990 WL 915120 (U.S. PTO Utility Dec 11, 1990) (NO. 278546)
Ruled Valid and Infringed by
- => 2 **Al-Site Corp. v. VSI Intern., Inc.**, 174 F.3d 1308, 50 U.S.P.Q.2d 1161 (Fed.Cir. Mar 30, 1999) (NO. 97-1593, 98-1008), rehearing denied, in banc suggestion declined (May 25, 1999) (BNA Version)
On Remand to
- H** 3 **Al-Site Corp. v. VSI Intern., Inc.**, 144 F.Supp.2d 1322, 53 U.S.P.Q.2d 1158 (S.D.Fla. Aug 31, 1999) (NO. 91847CIVHIGHSMITH, 922016CIVHIGHSMITH, 941920CIVHIGHSMITH), reconsideration denied (Oct 21, 1999) (BNA Version)
Mandamus Denied by
- H** 4 **In re Al-Site Corp.**, 230 F.3d 1380 (Fed.Cir. Feb 01, 2000) (TABLE, TEXT IN WESTLAW, NO. 607)
- ▶ 5 HANGER FOR DISPLAYING EYEGLASSES, US PAT 5144345, 1992 WL 1102645 (U.S. PTO Utility Sep 01, 1992) (NO. 606179)
Ruled Valid and Infringed by
- H** 6 **Al-Site Corp. v. Opti-Ray, Inc.**, 841 F.Supp. 1318, 28 U.S.P.Q.2d 1915 (E.D.N.Y. Aug 31, 1993) (NO. CV-92-4205) (BNA Version)
- ▶ 7 HANGER FOR DISPLAYING EYEGLASSES, US PAT 5144345, 1992 WL 1102645 (U.S. PTO Utility Sep 01, 1992) (NO. 606179)
Construed by
- H** 8 **Al-Site Corp. v. Bonneau Co.**, 1993 WL 616705, 30 U.S.P.Q.2d 1123 (C.D.Cal. Nov 23, 1993) (NO. CV 92-7533 DT (TX)) (BNA Version)
AND Ruled Not Infringed by
- ▶ 9 **Magnivision, Inc. v. Bonneau Co.**, 33 F.Supp.2d 1218 (C.D.Cal. Oct 13, 1998) (NO. CV 91-2167 DT TX, CV 92-7553 DT JGX, CV 97-8351 DT JGX)
Affirmed in Part, Reversed in Part by
- H** 10 **Magnivision, Inc. v. Bonneau Co.**, 250 F.3d 758 (Fed.Cir. Jun 15, 2000) (TABLE, TEXT IN WESTLAW, NO. 99-1093, 99-1108, 99-1094, 99-1105), rehearing and rehearing en banc denied (Jul 24, 2000)
- ▶ 11 HANGER FOR DISPLAYING EYEGLASSES, US PAT 5144345, 1992 WL 1102645 (U.S. PTO Utility Sep 01, 1992) (NO. 606179)
Ruled Valid and Infringed by

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Exhibit B

- => 12 **Al-Site Corp. v. VSI Intern., Inc.**, 174 F.3d 1308, 50 U.S.P.Q.2d 1161 (Fed.Cir. Mar 30, 1999) (NO. 97-1593, 98-1008), rehearing denied, in banc suggestion declined (May 25, 1999) (BNA Version)
- On Remand to*
- H 13 **Al-Site Corp. v. VSI Intern., Inc.**, 144 F.Supp.2d 1322, 53 U.S.P.Q.2d 1158 (S.D.Fla. Aug 31, 1999) (NO. 91847CIVHIGHSMITH, 922016CIVHIGHSMITH, 941920CIVHIGHSMITH), reconsideration denied (Oct 21, 1999) (BNA Version)
- Mandamus Denied by*
- H 14 **In re Al-Site Corp.**, 230 F.3d 1380 (Fed.Cir. Feb 01, 2000) (TABLE, TEXT IN WESTLAW, NO. 607)
- ▶ 15 **HANGER FOR DISPLAYING EYEGLASSES**, US PAT 5144345, 1992 WL 1102645 (U.S. PTO Utility Sep 01, 1992) (NO. 606179)
- Ruled Valid and Infringed by*
- H 16 **Magnivision, Inc. v. Bonneau Co.**, 250 F.3d 758 (Fed.Cir. Jun 15, 2000) (TABLE, TEXT IN WESTLAW, NO. 99-1093, 99-1108, 99-1094, 99-1105), rehearing and rehearing en banc denied (Jul 24, 2000)
- H 17 **HANGER FOR DISPLAYING EYEGLASSES**, US PAT 5260726, 1993 WL 1206743 (U.S. PTO Utility Nov 09, 1993) (NO. 930815)
- Ruled Valid and Infringed by*
- => 18 **Al-Site Corp. v. VSI Intern., Inc.**, 174 F.3d 1308, 50 U.S.P.Q.2d 1161 (Fed.Cir. Mar 30, 1999) (NO. 97-1593, 98-1008), rehearing denied, in banc suggestion declined (May 25, 1999) (BNA Version)
- On Remand to*
- H 19 **Al-Site Corp. v. VSI Intern., Inc.**, 144 F.Supp.2d 1322, 53 U.S.P.Q.2d 1158 (S.D.Fla. Aug 31, 1999) (NO. 91847CIVHIGHSMITH, 922016CIVHIGHSMITH, 941920CIVHIGHSMITH), reconsideration denied (Oct 21, 1999) (BNA Version)
- Mandamus Denied by*
- H 20 **In re Al-Site Corp.**, 230 F.3d 1380 (Fed.Cir. Feb 01, 2000) (TABLE, TEXT IN WESTLAW, NO. 607)
- ▶ 21 **HANGER FOR DISPLAYING EYEGLASSES**, US PAT 5521911, 1996 WL 1395993 (U.S. PTO Utility May 28, 1996) (NO. 365100)
- Ruled Not Infringed by*
- ▶ 22 **Magnivision, Inc. v. Bonneau Co.**, 33 F.Supp.2d 1218 (C.D.Cal. Oct 13, 1998) (NO. CV 91-2167 DT TX, CV 92-7553 DT JGX, CV 97-8351 DT JGX)
- Affirmed in Part, Reversed in Part by*
- H 23 **Magnivision, Inc. v. Bonneau Co.**, 250 F.3d 758 (Fed.Cir. Jun 15, 2000) (TABLE, TEXT IN WESTLAW, NO. 99-1093, 99-1108, 99-1094, 99-1105), rehearing and rehearing en banc denied (Jul 24, 2000)
- ▶ 24 **HANGER FOR DISPLAYING EYEGLASSES**, US PAT 5521911, 1996 WL 1395993 (U.S. PTO Utility May 28, 1996) (NO. 365100)
- Ruled Valid and Infringed by*
- => 25 **Al-Site Corp. v. VSI Intern., Inc.**, 174 F.3d 1308, 50 U.S.P.Q.2d 1161 (Fed.Cir. Mar 30, 1999) (NO. 97-1593, 98-1008), rehearing denied, in banc suggestion declined (May 25, 1999) (BNA Version)
- On Remand to*

- H** 26 Al-Site Corp. v. VSI Intern., Inc., 144 F.Supp.2d 1322, 53 U.S.P.Q.2d 1158 (S.D.Fla. Aug 31, 1999) (NO. 91847CIVHIGHSMITH, 922016CIVHIGHSMITH, 941920CIVHIGHSMITH), reconsideration denied (Oct 21, 1999) (BNA Version)
Mandamus Denied by
- H** 27 In re Al-Site Corp., 230 F.3d 1380 (Fed.Cir. Feb 01, 2000) (TABLE, TEXT IN WESTLAW, NO. 607)
- P** 28 HANGER FOR DISPLAYING EYEGLASSES, US PAT 5521911, 1996 WL 1395993 (U.S. PTO Utility May 28, 1996) (NO. 365100)
Ruled Not Infringed by
- H** 29 Magnivision, Inc. v. Bonneau Co., 250 F.3d 758 (Fed.Cir. Jun 15, 2000) (TABLE, TEXT IN WESTLAW, NO. 99-1093, 99-1108, 99-1094, 99-1105), rehearing and rehearing en banc denied (Jul 24, 2000)
- P** 30 Al-Site Corp. v. VSI Intern., Inc., 1997 WL 579201, 42 U.S.P.Q.2d 1876 (S.D.Fla. Feb 06, 1997) (NO. 91-0847-CIV-ATKINS, 92-2016-CIV-ATKINS, 94-1920-CIV-ATKINS) (BNA Version)
Judgment Affirmed in Part, Reversed in Part by
- =>** 31 Al-Site Corp. v. VSI Intern., Inc., 174 F.3d 1308, 50 U.S.P.Q.2d 1161 (Fed.Cir. Mar 30, 1999) (NO. 97-1593, 98-1008), rehearing denied, in banc suggestion declined (May 25, 1999) (BNA Version)
On Remand to
- H** 32 Al-Site Corp. v. VSI Intern., Inc., 144 F.Supp.2d 1322, 53 U.S.P.Q.2d 1158 (S.D.Fla. Aug 31, 1999) (NO. 91847CIVHIGHSMITH, 922016CIVHIGHSMITH, 941920CIVHIGHSMITH), reconsideration denied (Oct 21, 1999) (BNA Version)
Mandamus Denied by
- H** 33 In re Al-Site Corp., 230 F.3d 1380 (Fed.Cir. Feb 01, 2000) (TABLE, TEXT IN WESTLAW, NO. 607)
- P** 34 Magnivision, Inc. v. Bonneau Co., 115 F.3d 956, 42 U.S.P.Q.2d 1925 (Fed.Cir.(Cal.) Jun 09, 1997) (NO. 95-1093), rehearing denied, in banc suggestion declined (Aug 08, 1997) (BNA Version)
Certiorari Denied by
- H** 35 Bonneau Co. v. Magnivision, Inc., 522 U.S. 1090, 118 S.Ct. 880, 139 L.Ed.2d 869, 66 USLW 3355, 66 USLW 3489, 66 USLW 3490 (U.S. Jan 26, 1998) (NO. 97-785)
AND On Remand to
- P** 36 Magnivision, Inc. v. Bonneau Co., 33 F.Supp.2d 1218 (C.D.Cal. Oct 13, 1998) (NO. CV 91-2167 DT TX, CV 92-7553 DT JGX, CV 97-8351 DT JGX)
Affirmed in Part, Reversed in Part by
- H** 37 Magnivision, Inc. v. Bonneau Co., 250 F.3d 758 (Fed.Cir. Jun 15, 2000) (TABLE, TEXT IN WESTLAW, NO. 99-1093, 99-1108, 99-1094, 99-1105), rehearing and rehearing en banc denied (Jul 24, 2000)

Negative Indirect History (U.S.A.)*Distinguished by*

- P** 38 Relume Corp. v. Dialight Corp., 63 F.Supp.2d 788 (E.D.Mich. Aug 26, 1999) (NO. 98-CV-72360) ★ ★ ★ ★ **HN: 20,21,22 (F.3d)**
- P** 39 Depuy Orthopaedics Inc. v. Androphy, 2000 WL 297814, 53 U.S.P.Q.2d 1941 (N.D.Ill. Jan 19, 2000) (NO. 97 C 8017, 99 C 0068) ★ ★ ★ **HN: 5,17,22 (F.3d)** (BNA Version)
- H** 40 ANDREW H. CRAGG AND MICHAEL D. DAKE, JUNIOR PARTY, (APPLICATION 081461,402), v. ERIC C. MARTIN, JUNIOR PARTY, (APPLICATION 5,575,817), v. THOMAS J. FOGARTY, JAY A. LENKER, TIMOTHY J. RYAN AND KIRSTEN FREISLINGER, SENIOR PARTY, (APPLICATION 081463,836), 2001 WL 1339890 (Bd.Pat.App & Interf. 2001) (NO. INTERFERENCE 104,192) ★ ★ **HN: 20 (F.3d)**

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- H** 41 Sule v. Kloechn Co., Ltd., 149 F.Supp.2d 115 (D.N.J. Jun 18, 2001) (NO. CIV. A. 95-1090 (HAA) ★ ★
- H** 42 Cummins-Allison Corp. v. Glory Ltd., 2003 WL 355470 (N.D.Ill. Feb 12, 2003) (NO. 02 C 7008) ★ ★
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Court Documents

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